

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA

Plaintiff,

-vs-

Criminal Action No.  
22-00048-10-CR-W-DGK

CHRISTOPHER J. HICKS-BERRY,

Defendant.

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**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

The following matters were discussed and action taken during the pretrial conference:

- PENDING CHARGES:**    Count 1: Conspiracy to distribute 5 kilograms or more of cocaine; fentanyl; and less than 50 kilograms of marijuana *in violation of* 21 U.S.C. § 841(a)(1), (b)(1)(C) and (b)(1)(D)
- Count 33: Possession of a Firearm in Furtherance of a Drug Trafficking Offense *in violation of* 18 U.S.C. § 924(c)(1)(A)(i)
- Count 34: Use, Carry, and Discharge a Firearm During a Crime of Violence *in violation of* 18 U.S.C. § 924(c)(1)(A)(iii)
- Count 46: Possession with Intent to Distribute Marijuana *in violation of* 21 U.S.C. § 841(a)(1) and (b)(1)(D)
- Counts 47, 103: Possession of a Firearm in Furtherance of a Drug Trafficking Offense *in violation of* 18 U.S.C. § 924(c)(1)(A)(i)
- Counts 48, 104: Felon in Possession of a Firearm or Ammunition *in violation of* 18 U.S.C. § 922(g)(1) and 924(a)(2)
- Count 101: Possession with Intent to Distribute Cocaine *in violation of* 21 U.S.C. § 841(a)(1), (b)(1)(C) and (b)(1)(D)
- Count 102: Possession of a Machinegun in Furtherance of a Drug Trafficking Offense *in violation of* 18 U.S.C. § 924(c)(1)(A)(i) and (c)(1)(B)(ii)

Forfeiture Allegation One

**TRIAL COUNSEL:**

Government: Matthew Moeder, Stephanie Bradshaw and Paralegal Michelle Wells

Case Agent: ATF Special Agent Elizabeth White

Defense: Shawn Lee and potentially a paralegal

**OUTSTANDING MOTIONS:**

- First motion in limine by Christopher J Hicks-Berry (Doc. 838)
- Motion requesting a trial setting on the second week of the docket (Doc. 961). See trial setting information below for details.

**ANTICIPATED MOTIONS:**

Government: will revise previously filed jury instructions, witness list, and exhibit list

- During the conference, the Government raised concerns regarding two defense witnesses: a machine gun expert and a potential alibi witness. Defense counsel indicated that he would review his file and confer with the Government by the close of business on October 2, 2024, to address these issues. Should these concerns remain unresolved, the Government anticipates filing: a Motion in Limine regarding the machine gun expert and a Motion in Limine concerning the alibi witness.

Defense: motion for appointment of a paralegal

**TRIAL WITNESSES:**

Government: 15 without stipulations

Defense: 3 witnesses, including Defendant who ☐ will  
☒ may  
☐ will not testify

**TRIAL EXHIBITS:**

Government: 100 exhibits (50 evidence, 50 photographs)

Defense: 2 exhibits

**DEFENSES:**

☒ defense of general denial

☐ defenses of general denial and \_\_\_\_\_

**POSSIBLE DISPOSITION:**

☒ Definitely for trial

☐ Possibly for trial

☐ Motion to continue to be filed

☐ Likely a plea will be worked out

**TRIAL TIME:** With only Defendant Hicks-Bery 5 days; With Defendant Hicks-Berry and Defendant Bailey 5.5 Days

Government's case including jury selection: 4 days with Defendant Hicks-Berry

Defense case: 1 day

**STIPULATIONS:**

- ☒ not likely
- ☐ not appropriate
- ☐ likely as to:
  - ☐ chain of custody
  - ☐ chemist's reports
  - ☐ prior felony conviction
  - ☐ interstate nexus of firearm
  - ☐ other: \_\_\_\_\_

**UNUSUAL QUESTIONS OF LAW:** Government: None; Defense: Whether Defendant knowingly possessed the machine gun charged in Count 102.

**FILING DEADLINES:**

**Witness and Exhibit Lists:**

Government: On or before October 7, 2024

Defense: On or before October 7, 2024

**Counsel are requested to list witnesses in alphabetical order on their witness list.**

**Exhibit Index, Voir Dire, Jury Instructions:** On or before October 7, 2024

**Jury instructions must comply with Local Rule 51.1**

**Motions in Limine:** On or before October 7, 2024

**TRIAL SETTING:** Criminal jury trial docket commencing 10/21/2024

**Please note:** Defendant requests the second week of the docket (Doc. 961), beginning on October 28, 2024, based on Defense counsel's scheduling conflict, as counsel is scheduled for a jury trial in the 21<sup>st</sup> Judicial District of Kansas, Riley County District Court, *State of Kansas v. James Robert Watkins* (Case Nos. RL-2023-CR-000159, RL-2023-CR-000151, RL-2020-CR-000193) from October 21 to October 25, 2024. Although a continuance request has been filed in the Kansas State case, the conflict remains a potential issue. The Government does not oppose the trial being set for the second week of the docket. However, the Government noted a necessary witness will be unavailable on October 28 but will make arrangements accordingly.

**OTHER:**

- ☐ A \_\_\_\_\_-speaking interpreter is required.
- ☐ Other assistive devices: \_\_\_\_\_

**IT IS SO ORDERED.**

/s/ Jill A. Morris  
JILL A. MORRIS  
United States Magistrate Judge